

**REMARKS**

Claims 1-25 remain pending after amendment.

***Claim Amendments***

By this amendment, non-statutory claim 26 is canceled. Claim 19 is amended to delete reference to a compound specifically claimed in co-pending application No. 11/022,702. Claims 20-25 are amended to recite the presence of a pharmaceutically acceptable additive, support for which resides at pages 151-153 of the specification. No new matter is added by this amendment.

***Rejection under 35 USC 101***

Claim 26 stands rejected under 35 USC 101 as being non-statutory. In response, claim 26 is canceled. The rejection is thus moot.

***Rejection under 35 USC 112 (paragraph two)***

Claims 20-26 stand rejected under 35 USC 112 (paragraph two) as not distinctly claiming the invention.

In response, claim 26 is canceled. Claims 20-25 are amended to recite the presence of a pharmaceutically acceptable additive, as well as to be directed to a “composition”.

The rejection is thus moot and should be withdrawn.

***Obviousness-type double patenting rejections***

The Examiner issues the following obviousness-type double patenting rejections:

- (1) Claims 1-5, 11-18 and 20-25 stand rejected on the ground of obviousness-type double patenting as being unpatentable over claims 1-13 and 24-29 of application No. 11/453,194.
- (2) Claims 1-26 stand rejected on the ground of obviousness-type double patenting as being unpatentable over claims 1-26 of application No. 11/474,225.
- (3) Claims 1-19 stand rejected on the ground of obviousness-type double patenting over claims 1-19 of application No. 11/022,702.

The above rejections are respectfully traversed.

In response, applicants inform the Examiner that the later-filed '194 application is abandoned. Hence, the rejection is moot and should be withdrawn.

A terminal disclaimer has been filed in the later-filed '702 application. The '702 application appears to be in condition for allowance.

The claims in the '225 application which are under examination are believed to be sufficiently distinct from those of the instant application as to not support the double patenting rejection.

Applicants also note that the instant application has an earlier filing date than the above-noted '194, '702 and '225 applications. Under such circumstance where the claims of co-pending applications may be subject to an obviousness-type double patenting rejection, the Manual of Patent Examining Procedure (MPEP Section I-B-1) instructs the Examiner to permit the earlier-filed application to issue as a patent, and issue a double patenting rejection in any

later-filed application(s). Accordingly, for this reason, the issuance of the double patenting rejection in the instant application in relation to the later-filed applications should be found to be improper.

The obviousness-type double patenting rejections are thus without basis and should be withdrawn.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Bailey (Reg. No. 32,881) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Payment in the amount of \$1050.00 is submitted herewith as payment for the requested three month extension of time.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

*[Signature]*  
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Respectfully submitted,

By   
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